IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE

CIVIL WRIT PETITION NO. 543 OF 2007

Ramdas B. Kotian .. Petitioner

V/s.

Bank of Baroda .. Respondent

Mr. N.M.Ganguli for the Petitioner

None present for the Respondent

CORAM : B.H. MARLAPALLE & S.R. SATHE,JJ.

DATED : 24/04/2007

P.C.

1. We have heard Mr.Ganguli, learned Advocate for the Petitioner for some time.

2. We have noticed that the Tribunal had declined the relief of back wages and the said order was challenged before this Court in Writ Petition No.822 of 1993 and the said petition was decided by the Division Bench on 12-2-1996 and in para 2 of the said judgment it is stated as under :-

> "The Petitioner will not be entitled to any backwages as we have found that the petitioner had been on leave without pay permissible under the rules for the period of 522 days and even thereafter he was absent without sanctioned leave. The action of the Management has been set aside only for the reasons that it is not as envisaged by the rules and hence, we decline the relief of backwages to the petitioner. The petitioner will be in service without backwages but with continuity of service.

3. Undoubtedly the order of this Court has received its finality. Mr.Ganguli, learned Counsel for the Petitioner states that subsequently the Supreme Court rendered its judgment in the case of Vikramadiyta Pandey V/s Industrial Tribunal,Lucknow and Anr. (**(2001) 2 SCC 423**), and Mr.Ganguli stated that once the order of termination was found to be illegal and reinstatement was granted, the order of back wages must follow. He, therefore, for a mandamus to pay back wages on the basis of the decision in Vikramaditya Pandey's case (Supra).

4. We have perused the said judgment and we are satisfied that this petition is misconceived and the Petitioner cannot pray in a fresh writ petition for

the relief of back wages on the basis of subsequent judgment of the Supreme Court when the judgment rendered by the Division Bench of this Court in Writ Petition NO.822 of 1993 was not challenged. This petition can not be treated as a curative petition nor can it be treated a review petition.

5. Hence the petition fails at the threshold and the same is hereby rejected summarily.

(S.R.Sathe,J) (B.H.Marlapalle,J)